

Message Text

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E.O.; 11652: N/A

TAGS: CPAS (LEE, ARCHIE KAI CHEE AND LIU, BERTHA)

SUBJECT: CLAIMANTS TO US CITIZENSHIP

REF: STATE 44585 AND PREVIOUS

SUMMARY. CHINESE INFORMED USLO THAT ARCHIE KAI CHEE LEE IS A CHINESE CITIZEN AND THERE IS NO AMBIGUITY ABOUT HIS CITIZENSHIP. THIS DETERMINATION DOES NOT BODE WELL FOR OTHER CLAIMANTS TO US CITIZENSHIP, BUT USLO AGREES THAT IT COULD MAKE INQUIRIES OF MFA IF REQUESTED. END SUMMARY.

1. IN RESPONSE TO USLO REQUEST IN JANUARY FOR MEETING WITH CONSULAR DEPT. OFFICIALS, CONSULAR DEPT. INFORMED USLO ON FEB 27 THAT REQUESTED MEETING WOULD BE HELD ON FEB 28.

2. USLO RAISED A NUMBER OF PENDING QUESTIONS (SUBJECT SEPTELS) INCLUDING REITERATION OF REQUEST FOR INFORMATION IN THE CASES OF ARCHIE KAI CHEE LEE AND BERTHA LIU.

3. AFTER USLO HAD COMPLETED PRESENTATION OF ITS QUESTIONS, CHANG JUI, DIVISION HEAD WHO RECEIVED USLO OFFICERS, SAID THAT HE COULD GIVE A REPLY TO USLO'S FIFTH QUESTION. HE THEN READ IN CHINESE THE FOLLOWING FROM A PREPARED TEXT WHICH THE INTERPRETER THEN READ FROM A PREPARED ENGLISH TEXT.

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4. QTE. LAST NOVEMBER USLO MADE A REQUEST FOR A PERSON BY THE NAME

OF LI CH'I-CH'IH (FYI THROUGHOUT READING CHINESE USED MANDARIN RENDITION OF ARCHIE'S NAME, (END FYI) TO GO TO THE US LIAISON OFFICE FOR DISCUSSIONS. CONCERNING THIS QUESTION WE CONTACTED THE AUTHORITIES CONCERNED; THE SITUATION IS THIS:

5. QTE. JUDGING BY THE PRINCIPLES CHINA CONSIDERS IN NATIONALITY CASES, LI CH'I-CH'IH IS A CHINESE CITIZEN. THERE IS NO AMBIGUITY WITH REGARD TO HIS NATIONALITY.

6. QTE. THIS PERSON, LI CH'I-CH'IH, LONG SERVED IN THE AIR FORCE OF THE DEFUNCT KUOMINTANG GOVERNMENT.

7. QTE. IN 1949 IN HONG KONG HE ANNOUNCED HIS REPUDIATION OF THAT GOVERNMENT AND HIS DECISION TO RETURN TO THE MAINLAND.

8. QTE. SINCE HE CAME OVER TO THE CENTRAL PEOPLE'S GOVERNMENT HE HAS SERVED FOR THE PAST 20 ODD YEARS AS A MEMBER OF THE STATE PERSONNEL IN THE CIVIL AVIATION ORGANIZATION UNDER THE STATE COUNCIL OF THE PRC. LI CH'I-CH'IH HAS ENJOYED, AS WELL AS FULFILLED, ALL THE RIGHTS AND DUTIES OF A CHINESE CITIZEN. HENCE THE REQUEST TO ARRANGE A MEETING WITH HIM TO DISCUSS THE SO-CALLED QUESTION OF HIS US CITIZENSHIP RIGHTS IS UNJUSTIFIED, AND HENCE IT WILL NOT BE CONSIDERED (K'AL OU) BY THE CHINESE AUTHORITIES CONCERNED. UNQUOTE.

9. CHANG JUI DID NOT REFER TO BERTHA LIU IN HIS REPLY AND THE MEETING CLOSED WITH HIM STATING THAT THE OTHER QUESTIONS WOULD BE REFERRED TO THE AUTHORITIES CONCERNED. USLO WOULD BE CONTACTED WITH THEIR REPLIES AT A LATER DATE.

10. COMMENT: USLO HAD REQUESTED THE MEETING IN RESPONSE TO A CONSULAR DEPT SUGGESTION PASSED THROUGH THE INTERPRETERS IN JANUARY THAT IT MIGHT BE USEFUL TO MEET TO OBTAIN CLARIFICATIONS OF THE QUESTIONS WHICH USLO HAD POSED ON PRC REGULATIONS ON RIGHTS OF INHERITANCE. WE HAD DECIDED, HOWEVER TO RAISE OTHER PENDING QUESTIONS. WE BELIEVE THAT THE TIMING OF THE MEETING WAS DETERMINED BY THE CONSULAR DEPT'S HAVING OBTAINED AND WISHING TO INFORM USLO OF THE REPLY TO USLO'S REQUEST CONCERNING ARCHIE KAI CHEE LEE.

11. WHILE ARCHIE LEE'S CASE HAS A FACET WHICH OTHER CLAIMANT CASES LIMITED OFFICIAL USE

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MAY NOT, I.E. HIS ALLEGED REPUDIATION OF HIS KUOMINTANG TIES AND WHAT MIGHT BE CONSIDERED A DECLARATION OF ALLEGIANCE TO THE PRC, WE BELIEVE IT INDICATES THAT THE CHINESE ARE NOT LIKELY TO BE FLEXIBLE ON THE QUESTION OF DUAL NATIONALITY.

12. THE CHINESE REPLY SEEMS TO INDICATE TO US THAT IF A PERSON HAS REGISTERED AS CHINESE CITIZEN, WHICH WE PRESUME MOST OF THE RELATIVES OF US CITIZENS WHO RESIDE IN THE PRC HAVE DONE, AND IF

HE HAS LABORED FOR AND BENEFITTED FROM THE GOVERNMENT OF THE PRC, HIS CLAIMS TO US CITIZENSHIP MAY NOT BE ENTERTAINED BY THE PRC. AS REPORTED IN A-857 (DECEMBER) WE DOUBT THAT THE CHINESE PRINCIPLES OF NATIONALITY ARE ANYWHERE CODIFIED. DECISIT GWMNTRSZRKQX H818, ARE MADE ON A CASE BY CASE BASIS WITHOUT REFERENCE TO PRECEDENT.

13. CONCERNING THE LETTER FROM THE LAWYER OF MRS. MONICA YU, WE CONCUR IN THE DEPARTMENT'S PROPOSED REPLY. WE SUGGEST, HOWEVER, THAT THE LETTER NOT SUGGEST THAT THE FONGS COULD WRITE TO USLO FOR INFORMATION ON "APPLYING FOR PASSPORTS" BUT THAT THEY WRITE TO USLO FOR "INFORMATION ON THE PROCEDURES TO BE FOLLOWED TO PERMIT THE DEPARTMENT TO PROCESS THEIR POSSIBLE CITIZENSHIP CLAIMS."

14. IF WE RECEIVE SUCH A LETTER, USLO WOULD REPLY DIRECTLY, ACKNOWLEDGING RECEIPT AND ASKING THE WRITER TO COMPLETE FORM 176, 176S AND THE QUESTIONNAIRE WHICH WE WOULD ENCLOSE.

15. CONCERNING THE PROPOSAL IN PARA 2 REFTTEL, WE HAVE NO OBJECTION TO IT. OUR INCLINATION, HOWEVER, IS TO OFFER THE MFA APPROACH AS EITHER A SECOND STEP OR AS A SEPARATE ROUTE.

16. FIRST, THE PERSON IN THE PRC SHOULD WRITE USLO AND WE WOULD REPLY AS SUGGESTED IN PARA 13 AND 14 ABOVE. IF, UPON RECEIPT OF THE 176, 176S AND QUESTIONNAIRE AND IF DEPARTMENT'S DETERMINATION OF CITIZENSHIP IS POSITIVE, DEPARTMENT COULD THEN OFFER US RELATIVE WHO ASKED FOR ASSISTANCE TO HAVE USLO TAKE UP THE MATTER WITH MFA UPON RECEIPT OF A LETTER FROM THE RELATIVE IN THE PRC REQUESTING THIS.

17. THE SECOND AND ALTERNATE APPROACH WOULD BE USED WHEN THE LIMITED OFFICIAL USE

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DEPARTMENT'S RECORDS SHOW PRIOR ISSUANCE OF A US PASSPORT OR OTHER EVIDENCE WHICH LEADS THE DEPARTMENT TO DETERMINE THAT AN INITIAL DETERMINATION OF CITIZENSHIP WOULD BE POSITIVE AND THAT IT WOULD NOT BE NECESSARY TO OBTAIN THE 176, 176S AND QUESTIONNAIRE.

18. THE DEPARTMENT COULD THEN REQUEST THE LETTER AUTHORIZING USLO TO APPROACH THE MFA OR SUGGEST THAT THE PERSON IN THE PRC WRITE DIRECTLY TO USLO ASKING USLO TO INFORM MFA OF HIS OR HER DESIRE TO VISIT USLO TO DISCUSS THE QUESTION OF CITIZENSHIP.

19. WE WISH TO KEEP SEPARATE THE REQUESTS FOR "INFORMATION ON THE PROCEDURES TO BE FOLLOWED TO PERMIT THE DEPARTMENT TO PROCESS THEIR POSSIBLE CITIZENSHIP CLAIMS" AND THE REQUESTS THAT WE APPROACH THE MFA; BECAUSE WHEN WE APPROACH THE MFA, WE ARE IN EFFECT ASKING TH E

CHINESE TO DETERMINE THE CITIZENSHIP OF THE PERSON. DURING THE PERIOD OF THEIR CONSIDERATION, WE DO NOT BELIEVE WE SHOULD BE SENDING FORMS WHICH REFER TO A PASSPORT APPLICATION.

20. IN LETTERS WHICH THE DEPARTMENT SENDS TO PERSONS IN THE US REQUESTING AUTHORIZATION TO APPROACH MFA, WE SUGGEST THAT SUCH LETTERS ADVISE THESE PERSONS THAT THEY SHOULD NOT EXPECT AN EARLY REPLY IF THE MATTER IS TAKEN UP WITH THE MINISTRY OF FOREIGN AFFAIRS.

21. ALSO, ALTHOUGH IT MIGHT BE DIFFICULT TO PHRASE, WE THINK IT WOULD BE HELPFUL TO TRY TO TELL INQUIRERS IN THE US THAT CHINESE RECOGNITION OF US CITIZENSHIP MAY NOT BE EASILY ESTABLISHED IF THE CLAIMANTS HAVE NOT PREVIOUSLY ESTABLISHED THEIR CLAIMS TO US NATIONALITY WITH THE PRC AUTHORITIES.

22. WE WONDER HOWEVER WHERE WE WOULD GO THEN IF OUR INITIAL DETERMINATION WAS POSITIVE AND IF THE CHINESE SUBSEQUENTLY REPLIED THAT THE CLAIMANT WAS A CHINESE CITIZEN. HOW FAR WOULD WE WISH TO PRESS THE QUESTION WITH THE CHINESE WHEN WE DO NOT EVEN HAVE A LEGAL APPLICATION FOR A PASSPORT. WHAT SORT OF PRESSURES WOULD US CITIZEN RELATIVES BRING FOR FURTHER ACTION AND WHAT MEASURES COULD WE TAKE TO RESPOND SUBSEQUENTLY TO THESE PRESSURES.
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